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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,173	02/11/2004	Lilian Labelle	01807.101314.	9925
5514 7590 07/20/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
JACOBS, LASHONDA T				
ART UNIT		PAPER NUMBER		
2457				
MAIL DATE		DELIVERY MODE		
07/20/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/775,173

**Applicant(s)**

LABELLE, LILIAN

**Examiner**

LASHONDA T. JACOBS

**Art Unit**

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on March 26, 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

This Office action is in response to Applicant's Amendment filed on March 26, 2009. Claims 1-16 are presented for further examination.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5, 6, 11, 12, 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has used a contradictory statement “and/or”. The Examiner will use the “or” statement until further clarification by the applicant.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 recite purely mental steps and must be tied to another statutory class (the thing or product) to which is tied, for example by identifying the apparatus that accomplishes the method steps or positively recites the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. A process

claim that does not involve a transformation must involve, or be tied to, another category of statutory subject matter (i.e., a machine, manufacture, or composition of matter).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims **1-16** are rejected under 35 U.S.C. 102(b) as being anticipated by Hijiri et al (hereinafter, “Hijiri”, U.S. Pub. No. 2001/0020943).

As per claims **1, 7 and 13**, Hijiri discloses a method and a device of managing requests in at least two distinct classes, relating to multimedia data, exchanged by a communication apparatus and at least one data source connected through a communication network, said method performed at the communication apparatus and comprising the steps of:

- enabling at least one request of at least a first class of requests, the enabling taking account of the multimedia data received from at least a second class of requests, the requests of the second class being predictable in time (paragraphs 0045, 0049 and 0060); and
- dynamically allocating a priority to each of the enabled requests, in accordance with characteristics of said enabled requests (paragraphs 0055, 0060 and 0067).

- dynamically allocating a priority to each of the enabled requests of the second class in accordance with the time remaining until the next request of the second class (paragraphs 0067-0069).

As per claims **2** and **8**, Hijiri discloses:

- a step of deciding with regard to the transmission of at least one enabled request, according to the priority allocated to said request (paragraphs 0067-0069).

As per claims **3**, **9** and **14**, Hijiri further discloses:

- a step of updating the requests in at least a first class, the updating taking account of the multimedia data received from at least one request in at least a second class (paragraphs 0067-0069).

As per claims **4** and **10**, Hijiri discloses:

- wherein said communication apparatus and said data source are connected by a connection of the HTTP type (paragraphs 0108, 0111 and 0114).

As per claims **5** and **11**, Hijiri discloses:

- wherein the multimedia data are Flash animations and/or image data compressed according to the JPEG2000 standard (paragraph 0034).

As per claims **6**, **12**, **15** and **16**, Hijiri discloses:

- wherein said requests are associated with the animation of an object and/or with the carrying out of a zoom or pan or a change of quality on an image and/or with interactions between a user and an animation (paragraphs 0034-0036).

***Response to Arguments***

6. Applicant's arguments with respect to claims **1-16** have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LASHONDA T. JACOBS whose telephone number is (571)272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaShonda T Jacobs/  
Primary Examiner, Art Unit 2457

ltj  
July 15, 2009